

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

PHOEBE MUOTOH

Registered Nurse License No. 679119

Respondent

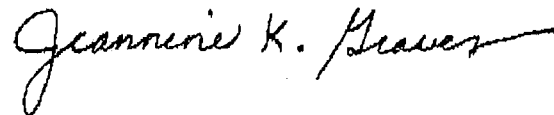
Case No. 2011-645

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order for Public Reproval is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on July 22, 2011.

IT IS SO ORDERED June 22, 2011.



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SHANA A. BAGLEY
Deputy Attorney General
4 State Bar No. 169423
1515 Clay Street, 20th Floor
5 P.O. Box 70550
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6 Telephone: (510) 622-2129
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7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2011-645

12 **PHOEBE MUOTOH**
13 **9404 Meadow Vale**
Austin, TX 78758

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR PUBLIC
REPROVAL

14 **Registered Nurse License No. 679119**

[Bus. & Prof. Code § 495]

15 Respondent.

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 PARTIES

20 1. LOUISE R. BAILEY, M.ED., RN (Complainant) is the Executive Officer of the
21 Board of Registered Nursing. She brought this action solely in her official capacity and is
22 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
23 Shana A. Bagley, Deputy Attorney General.

24 2. Respondent Phoebe Muotoh (Respondent) is represented in this proceeding by
25 attorney Paula Henry, Esq., whose address is 1414 Henry & Henry, 27422 Portola Parkway, Suite
26 360, Foothill Ranch, CA 92610.
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1 9. Respondent agrees that her Registered Nurse License is subject to and she agrees to
2 be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

3 CIRCUMSTANCES IN MITIGATION

4 10. Respondent Phoebe Muotoh has never been the subject of any disciplinary action.
5 She is admitting responsibility at an early stage in the proceedings.

6 CONTINGENCY

7 11. This stipulation shall be subject to approval by the Board of Registered Nursing.
8 Respondent understands and agrees that counsel for Complainant and the staff of the Board of
9 Registered Nursing may communicate directly with the Board regarding this stipulation and
10 settlement, without notice to or participation by Respondent or her counsel. By signing the
11 stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek
12 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
13 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
14 Order for Public Reprimand shall be of no force or effect, except for this paragraph, it shall be
15 inadmissible in any legal action between the parties, and the Board shall not be disqualified from
16 further action by having considered this matter.

17 12. The parties understand and agree that facsimile copies of this Stipulated Settlement
18 and Disciplinary Order for Public Reprimand, including facsimile signatures thereto, shall have the
19 same force and effect as the originals.

20 13. This Stipulated Settlement and Disciplinary Order for Public Reprimand is intended by
21 the parties to be an integrated writing representing the complete, final, and exclusive embodiment
22 of their agreement. It supersedes any and all prior or contemporaneous agreements,
23 understandings, discussions, negotiations, and commitments (written or oral). This Stipulated
24 Settlement and Disciplinary Order for Public Reprimand may not be altered, amended, modified,
25 supplemented, or otherwise changed except by a writing executed by an authorized representative
26 of each of the parties.

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1 14. In consideration of the foregoing admissions and stipulations, the parties agree that
2 the Board may, without further notice or formal proceeding, issue and enter the following
3 Disciplinary Order:

4 **DISCIPLINARY ORDER**

5 IT IS HEREBY ORDERED that Registered Nurse License No. 679119 issued to
6 Respondent Phoebe Muotoh shall, by way of letter from the Board's Executive Officer, be
7 publicly reprovved. The letter shall be in the same form as the letter attached as Exhibit "B" to this
8 stipulation.

9 **ACCEPTANCE**

10 I have carefully read the above Stipulated Settlement and Disciplinary Order for Public
11 Reproval and have fully discussed it with my attorney, Paula Henry, Esq. I understand the
12 stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated
13 Settlement and Disciplinary Order for Public Reproval voluntarily, knowingly, and intelligently,
14 and agree to be bound by the Decision and Order of the Board of Registered Nursing.

15
16 DATED: 3/30/11

Phoebe Muotoh
PHOEBE MUOTOH
Respondent

17
18
19 I have read and fully discussed with Respondent Phoebe Muotoh the terms and conditions
20 and other matters contained in the above Stipulated Settlement and Disciplinary Order for Public
21 Reproval. I approve its form and content.

22 DATED: 4/19/11

Paula F. Henry
Paula Henry, Esq.
Attorney for Respondent

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STIPULATED SETTLEMENT (Case No. 2011-645)

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order for Public Reproval is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated: ~~March 14~~, 2011
25 APRIL

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
DIANN SOKOLOFF
Supervising Deputy Attorney General

SHANA A. BAGLEY
Deputy Attorney General
Attorneys for Complainant

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BOARD OF
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Exhibit "A"

Accusation No. 201116450
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1 KAMALA D. HARRIS
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2 DIANN SOKOLOFF
Supervising Deputy Attorney General
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Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2011-645

11 **PHOEBE ELINMA MUOTOH, a.k.a.**
12 **PHOEBE ELINMA DANCHIMAH**
13 9404 Meadow Vale
14 Austin, TX 78758

ACCUSATION

15 Registered Nurse No. 679119

Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing (Board),
21 Department of Consumer Affairs.

22 2. On or about May 11, 2006, the Board issued Registered Nurse License Number
23 679119 to Phoebe Elinma Muotoh, also known as Phoebe Elinma Danchimah (Respondent). The
24 Registered Nurse was in full force and effect at all times relevant to the charges brought in this
25 Accusation and will expire on February 29, 2012, unless renewed.

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Accusation

JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Code Section 118, subdivision (b), states:

"The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground."

5. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

7. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

8. Code Section 141 states:

"(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state,

an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

“(b). Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country.”

9. Section 2761 of the Code states, in part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

“(a) Unprofessional conduct, which includes, but is not limited to, the following:

"(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

"(e) Making or giving any false statement or information in connection with the application for issuance of a certificate or license.

COST RECOVERY

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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FIRST CAUSE FOR DISCIPLINE
(Out of State Discipline)
(Business and Professions Code § 2761 (a)(4))

11. Respondent is subject to disciplinary action under Code section 2761, subdivision (a)(4), on the grounds of unprofessional conduct in that on or about September 2, 2008, in a disciplinary action before the Texas Board of Nursing in *In the Matter of Registered Nurse License Number 615951 Issued to Phoebe Elinma Muotoh*, where the Texas Board of Nursing in its Agreed Order issued the sanction of remedial education. The Order required that Respondent: (1) comply with the Nursing Practice Act, Texas Occupations Code, the Rules and Regulations relating to Professional Nurse Education, Licensure and Practice, applicable portions of the Texas Administrative Code, and the Order; (2) be prohibited from practicing nursing outside of the State of Texas without prior approval; (3) deliver the wallet-sized license to the Board; and (4) within one year from the effective date, complete a courses in Texas nursing jurisprudence and ethics, physical assessment, and in nursing documentation. Respondent signed the Agreed Order on August 20, 2008.

12. The underlying conduct supporting the Texas Board's disciplinary action is that on or about February 26, 2006, Respondent failed to assess and document the status of an assigned patient that had fallen out of bed. Specifically, Respondent failed to: assess the patient at the time of the fall, conduct a reassessment, document the medical record for that date, and notify the patient's physician and family of the fall. Respondent's conduct was found to have resulted in an incomplete medical record and might have unnecessarily exposed the patient to the risk of harm from clinical complications and to have violated the Texas Occupations Code and the Texas Administrative Code.

SECOND CAUSE FOR DISCIPLINE
(False Statement on Application)
(Business and Professions Code § 2761(e))

13. Respondent is subject to disciplinary action under Code section 2761, subdivision (e), for making or giving a false statement or information on her application for licensure, in that on or about January 21, 2010, on her license renewal application Respondent falsely declared, under

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Accusation

1 penalty of perjury, that since she last renewed her license, she had not had a license disciplined by
2 a government agency or other disciplinary body.

3 PRAYER

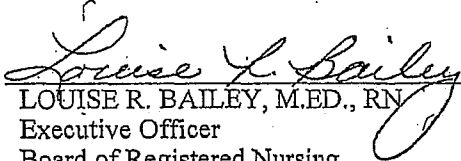
4 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
5 and that following the hearing, the Board of Registered Nursing issue a decision:

6 1. Revoking or suspending Registered Nurse License Number 679119 issued to Phoebe
7 Elinma Muotoh, a.k.a. Phoebe Elinma Danchimah;

8 2. Ordering Phoebe Elinma Muotoh, a.k.a. Phoebe Elinma Danchimah, to pay the Board
9 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
10 Professions Code section 125.3; and

11 3. Taking such other and further action as deemed necessary and proper.
12
13

14 DATED: January 24, 2011


15 LOUISE R. BAILEY, M.Ed., RN
16 Executive Officer
17 Board of Registered Nursing
18 Department of Consumer Affairs
19 State of California
20 Complainant

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Exhibit "B"

Letter of Public Reproval in Case No. 2011-645

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STATE AND CONSUMER SERVICES AGENCY • GOVERNOR EDMUND G. BROWN JR.

BOARD OF REGISTERED NURSING

PO Box 944210, Sacramento, CA 94244-2100

P (916) 322-3350 F (916) 574-8637 | www.rn.ca.gov

Louise R. Bailey, MEd, RN, Executive Officer



June 22, 2011

Phoebe Muotoh
9404 Meadow Vale
Austin, TX 78758

Re: LETTER OF PUBLIC REPROVAL
In the Matter of the Accusation Against:
Phoebe Muotoh, Registered Nurse License No. 679119

Dear Ms. Muotoh:

On January 24, 2011, the Board of Registered Nursing, Department of Consumer Affairs, State of California, filed an Accusation against your Registered Nurse License. The Accusation alleged that you engaged in unprofessional conduct under Business and Professions Code section 2761, subdivision (a)(4), (Out of State Discipline) and 2761, subdivision (e), (False Statement on Application.)

On September 2, 2008, the Texas Board of Nursing issued an order of discipline against your license for one incident of unprofessional conduct that occurred in 2006. The underlying conduct supporting the Texas board's disciplinary action is that you failed to: assess the patient at the time of the fall, conduct a reassessment, document the medical record for that date, and notify the patient's physician and family of the fall. This conduct was found to have resulted in an incomplete medical record and might have unnecessarily exposed the patient to the risk of harm from the clinical complications. As part of your probationary terms, you were ordered to complete remedial education.

Additionally, on January 21, 2010, you falsely stated on your license renewal application with the California Board of Registered Nursing that you did not have a license disciplined by a government agency.


You have been licensed since 2006 without prior discipline. The underlying offense that gave rise to the out of state discipline was an isolated event and is six years old. You believed that the Texas Board of Nursing disciplinary order had been expunged after your compliance with probation. There are also other mitigating circumstances in this case that support the determination that you are safe to practice registered nursing. Taking into consideration the above-listed factors, the Board has decided that the charges warrant a public reproof.

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Phoebe Muotoh
RN No. 679119
June 22, 2011

Accordingly, in resolution of this matter under the authority provided under Business and Professions Code 495 the Board of Registered Nursing, Department of Consumer Affairs issues this letter of public reproof.

Sincerely,


for LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs